

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6573 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.PARIKH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

HABIBULLAH ISMAIL SAMOL

Versus

STATE OF GUJARAT

Appearance:

MR PB MAJMUDAR for Petitioners

MR VB GHARANIDA, AGP for Respondents.

CORAM : MR.JUSTICE M.S.PARIKH

Date of decision: 20/08/98

ORAL JUDGEMENT

Rule. Service of rule waived by Mr. V.B. Gharania, Ld. AGP for the respondents.

2. On 13/8/1998 following order was passed :-

"Heard Shri Prajapati for the petitioners. The submission of the petitioners is that there is no Urdu Medium school imparting education to boys

having classes in standards 11 and 12. They were, therefore, required to study standards 11 and 12 through Gujarati medium. They want admission from the quota meant for the students who have passed their 12th standard examination through Urdu medium, which are likely to be allotted only to girl students.

Notice to the respondents returnable on 20th Aug.

1998. In view of the peculiar submissions made by the petitioners, the respondents will keep two seats vacant in the quota meant for students who have passed their HSC examination through Urdu medium unless the last two seats are going to students with marks more than that of the petitioners. Direct service is permitted."

3. Today, in response Mr. V.B. Gharania, Ld. AGP for the respondents submits under instructions from Mr. P.G. Upadhyay, Lecturer in P.R. Training College (respondent no.3) that there is no Urdu medium school imparting education to boys, having classes in standards 11 and 12.

4. Mr. A.V. Prajapati, learned advocate appearing for the petitioners has drawn attention of this Court to the order dated 13/9/1991 (Coram : S.D. Shah, J. as he was then) in S.C.A. No. 4405 of 1991. The said order is required to be reproduced, since Mr. V.B. Gharania, Ld. AGP submits that the respondents will follow the directions contained in the said order :

"By way of ad-interim relief respondents are directed to enroll the petitioner in P.T.C. Urdu course provisionally and to decide the application of the petitioner on merits. Such a mandatory direction is required to be given in view of the fact that since July 1991 till date despite number of adjournments granted by this Court, only defence put-forth by the respondents is that from 1990-91 it has been decided to give admission in Urdu medium PTC course only to those students who have taken higher level Urdu or who have studied all throughout all the subjects in Urdu medium and have passed SSC examination in Urdu. Said circular is dated 4/9/1990 addressed by the officer of the Education Department to the Director of Primary Education. Subsequent letter, dtd. 18/12/90 says that wide publicity shall be given to this new procedure and students

should be informed well in advance as to how the admissions to PTC course will be governed in the Urdu medium PTC course. Despite said decision taken as back as December 1990 respondents are not in position to inform this court as to whether effect to this letter is given and as to whether students were informed well in advance that admission to PTC course in Urdu medium can be given only to those students who have opted for higher Urdu level or who have studied all subjects in Urdu medium. In view of the decision of this court in Spl.C.A. No. 3445/81 rendered by Justice A.M. Ahmadi (as he then was) on 28/1/1982 I do not find any reason why mandatory relief should not be granted directing the respondents to give admission to petitioner in PTC course in Urdu medium provisionally and to consider the application of the petitioner on merits. Direct service permitted."

In view of what is stated above, the respondents are directed to consider the petitioners' case on the basis of the aforesaid order dated 13/9/1991 and will consider the petitioners' case also on their merits.

Subject to the aforesaid direction, rule is discharged with no order as to cost. DSP.

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PVR sca657398j.